

## CHAPTER 199

**AN ACT** concerning a basic skills training program for economic growth, amending and supplementing P.L.2001, c.152 and amending P.L.2007, c.101.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.34:15D-21.1 Short title.

1. This act shall be known and may be cited as the “New Jersey Basic Skills Training Program for Economic Growth Act.”

C.34:15D-21.2 Findings, declarations relative to the basic skills training program.

2. The Legislature finds and declares that:

a. A skilled workforce is one of the most critical issues to New Jersey businesses and the State’s economic competitiveness, and, unfortunately, the basic computer, mathematics, communications and English skills of many New Jersey workers is less than what employers require for success;

b. In 2007, a public-private partnership formed between the New Jersey Department of Labor and Workforce Development, the New Jersey Community College Consortium for Workforce and Economic Development, and the New Jersey Business and Industry Association to provide basic skills training with more flexibility to businesses throughout the State by means of a grant from the Supplemental Workforce Fund for Basic Skills;

c. During the first two years of this training program, 750 employers sent almost 10,000 enrollees to be trained, significantly more than any other single New Jersey Department of Labor and Workforce Development grant program;

d. This program was successful in reaching so many more workers and businesses because of its flexibility, in not requiring employers to complete any paperwork or financial disclosure, not charging them for the training, other than requiring that they pay their employees while they are trained, and not requiring every class to have a minimum of ten employees from a single employer;

e. Credit for this flexibility and the program’s success should be given to Governor Jon S. Corzine, Commissioner David J. Socolow and the grant staff at the New Jersey Department of Labor and Workforce Development, because they understood that the focus of this grant should be on training as many workers as possible and not on fitting within previous grant structures and traditions, and without them, 750 businesses would not have been helped and 10,000 enrollees would not have been trained;

f. This program has been positive for all those involved: the employees receiving portable training and skills; the employers improving their workforce; the community colleges being optimally utilized to provide the most effective and efficient method of training; and the State positively contributing to workers, businesses and economic development with no new costs; and

g. Legislation is needed to ensure that the success of this program and the flexibilities afforded it by the Governor and commissioner are made permanent in the statutes.

3. Section 1 of P.L.2001, c.152 (C.34:15D-21) is amended to read as follows:

C.34:15D-21 “Supplemental Workforce Fund for Basic Skills.”

1. a. A restricted, nonlapsing, revolving "Supplemental Workforce Fund for Basic Skills," to be managed and invested by the State Treasurer, is hereby established in the Department of Labor and Workforce Development to provide basic skills training. All moneys appropriated to the fund, all interest accumulated on balances in the fund and all cash

received for the fund from any other source shall be allocated by the Commissioner of Labor and Workforce Development as follows:

(1) 24% shall be deposited in an account reserved to support basic skills training delivered by the State's One Stop Career Centers to qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7);

(2) 28% shall be deposited in an account reserved for Workforce Investment Boards to provide grants for basic skills training for qualified displaced, disadvantaged and employed workers pursuant to Employability Development Plans developed pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) and for other individuals with learning disabilities or otherwise in need of vocational rehabilitation services;

(3) 25% shall be deposited in an account reserved for grants to consortia including one or more of any of the following: eligible individual employers, employer organizations, labor organizations, community-based organizations or educational institutions to provide basic skills training to qualified displaced, disadvantaged or employed workers or to other individuals seeking to enter apprenticeship training;

(4) 13% shall be deposited in an account reserved for a grant to the New Jersey Community College Consortium for Workforce and Economic Development, a part of the New Jersey Council of County Colleges, to provide basic skills training to qualified displaced, disadvantaged or employed workers; and

(5) 10% shall be deposited in an account to be used, at the discretion of the commissioner, for any of the purposes indicated in this subsection a. and any administrative costs incurred by the Department of Labor and Workforce Development in connection with the fund.

b. Any grant provided in connection with paragraph (3) of subsection a. of this section directly to an employer or to an employer through a consortium shall be regarded as a customized training grant and shall be administered by the Office of Customized Training and the employer and consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that any grants provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities or preparation for entry into apprenticeship training shall be exempt from the requirement of this subsection b. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), if it is approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3), and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Any grant provided in connection with paragraph (b) of subsection a. of this section directly to an individual shall be regarded as an individual training grant and shall be subject to the requirements of subsections a., c. and d. of section 6 of P.L.1992, c.43 (C.34:15D-6).

Also, any funds provided in connection with paragraph (4) of subsection a. of this section shall be provided to the New Jersey Community College Consortium for Workforce and Economic Development by the Office of Customized Training, and shall comply with the following requirements:

(1) The New Jersey Community College Consortium for Workforce and Economic Development shall work with all the community colleges throughout the State of New Jersey to deliver basic skills training in the most effective and efficient manner possible at any of their 63 campuses or at any appropriate business facility;

(2) There shall be no charge to the employer sending employees to the training, but the employer shall pay employees regular wages for the hours the training takes place;

(3) The employers sending their employees to this training shall not be asked to provide any paperwork or complete any financial disclosure forms, including a tax clearance certificate as provided in section 1 of P.L.2007, c.101 (C.54:50-39), except that employers shall provide the employees participating in the training with the information that the employees need to comply with paragraph (4) of this subsection, and shall provide the New Jersey Community College Consortium for Workforce and Economic Development with the information the employer has regarding its participating employees that the consortium needs to produce the annual report required pursuant to paragraph (7) of this subsection;

(4) The employees being trained shall provide the Federal Employer Identification Number (FEIN) of their employer and the employer's contact information at the beginning of the training;

(5) The mean class size for training under this subsection shall be 10, but the New Jersey Community College Consortium for Workforce and Economic Development may aggregate employees from multiple employers in a single training to reach that mean of 10;

(6) The training provided under this subsection shall be basic skills training, but the apportionment of classes in the different areas of basic skills as defined by subsection h. of this section may be determined by the New Jersey Community College Consortium for Workforce and Economic Development in consultation with representatives of the business community;

(7) The New Jersey Community College Consortium for Workforce and Economic Development shall file an annual report by September 1 of each year with the New Jersey Legislature and the New Jersey Department of Labor and Workforce Development containing the total number of workers trained, the total funds expended on training, the number of workers trained in each area of basic skills training, the number of businesses with employees trained, the number of classes held in each area of basic skills training, the number of classes held at each community college, the wage ranges of the workers trained, the job titles of the workers trained and the results of the pre-training and post-training assessments. The report shall also include an analysis of the strengths and weaknesses of the training program and how it can be improved in the following year. The report shall supplant all requirements for any other reporting that the New Jersey Community College Consortium for Workforce and Economic Development may be asked to complete with respect to the funds it receives through paragraph (4) of subsection a. of this section; and

(8) The New Jersey Community College Consortium for Workforce and Economic Development shall work with the business community to promote this program to businesses across the State, including chambers of commerce, Statewide associations, such as the New Jersey Business and Industry Association, and any other appropriate business organizations.

c. Any employment and training services funded by the Supplemental Workforce Fund for Basic Skills shall be provided in a manner which complies with the provisions of subsections b., c., f., g., h. and i. of section 4 of P.L.1992, c.43 (C.34:15D-4), to the extent that those subsections pertain to remedial education. Any service provider receiving moneys from the Supplemental Workforce Fund for Basic Skills shall be subject to the provisions of section 8 of P.L.1992, c.43 (C.34:15D-8) and section 8 of P.L.1992, c.44 (C.34:15D-19).

d. All staff located at any One Stop Career Center supported by funds provided from the Supplemental Workforce Fund for Basic Skills shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes.

e. Beginning July 1, 2002, and for any subsequent fiscal year, if the unexpended cash balance in any of the accounts indicated in subsection a. of this section, less any amount awarded in grants but not yet disbursed from the account, is determined to exceed 20% of the amount of contributions collected for deposit in the account pursuant to this subsection during the fiscal year then ended, the excess shall be regarded as an unemployment compensation contribution and deposited into the unemployment compensation fund within seven business days of the date that the determination is made.

f. The Commissioner of Labor and Workforce Development shall establish standards of performance for providers of basic skills training pursuant to this act. The standards shall include, but not be limited to, standards for the curriculum or training to be furnished, qualifications for persons who will provide the training under the act, and standards for establishing what constitutes successful completion of the training program. The commissioner shall establish means of determining the ability of enrollees to gain or maintain employment following the successful completion of a training program established pursuant to this section. In the event that the commissioner determines that a provider has not conducted its training program in accordance with the standards of performance, he may take that action necessary to correct the deficiencies of the provider, or terminate the contract with the provider of basic skills services if the provider fails to respond to remedial action.

g. The State Employment and Training Commission shall review and evaluate the operations of programs supported by the Supplemental Workforce Fund for Basic Skills established pursuant to this section, with special consideration to how those programs assist in the implementation of the goals of the Strategic Five-Year State Plan for New Jersey's Workforce Investment System, and shall consult with the Commissioner of Labor and Workforce Development regarding its findings.

h. For the purpose of this section:

"Basic skills training" means basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills and shall be regarded as a form of "remedial education" for the purposes of section 3 of P.L.1992, c.43 (C.34:15D-3);

"One Stop Career Center" means one of the centers established in local areas to coordinate a variety of State and local programs providing employment and training services, including job placement services, or any other similar State or local government-sponsored center providing employment and training services as may be developed at any later time; and

"Qualified disadvantaged worker," "qualified displaced worker," "qualified employed worker," and "employment and training services" have the meanings given to them by section 3 of P.L.1992, c.43 (C.34:15D-3).

4. Section 1 of P.L.2007, c.101 (C.54:50-39) is amended to read as follows:

C.54:50-39 Tax clearance certificate required for certain awards; incentive.

1. a. A department or agency of State government, including independent authorities and instrumentalities of the State, shall, as a precondition to the award of business assistance or incentive or as a component of the application for business assistance or incentive as appropriate, require a person to submit a tax clearance certificate issued by the director prior to the department or agency making an award of business assistance or incentive to the person.

b. The person applying for business assistance or incentive may apply to the director for a tax clearance certificate and shall provide the director such information in such form as the director may prescribe necessary for the director to determine if the person has satisfied all

requirements for filing those State tax and information returns and for paying those State taxes for which they have been liable as taxpayers or as collectors of tax.

c. If the director determines that the person has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees, the director shall issue to the person a tax clearance certificate.

If the director determines that the person has not filed all required tax and information returns or has not paid all tax, penalties, interest, or fees due, the director shall issue a notice of delinquency or deficiency listing unfiled returns or balances due. The director may require a person to resolve all delinquencies and deficiencies before a tax clearance certificate is issued, or upon review of the total circumstances, the director may issue an interim tax clearance certificate if the director determines to the director's satisfaction that the person will resolve all such delinquencies or deficiencies within the time period specified by the director.

The director's issuance of a regular or interim tax clearance certificate shall not constitute a waiver of authority to demand resolution of all deficiencies and delinquencies and shall not prevent further audit or the assessment of additional taxes, penalties, interest, or fees as may be provided by law. No additional right to protest or appeal the State tax indebtedness, filing deficiency, or penalties shall be available to any person pursuant to this section.

d. As used in this section:

"Business assistance or incentive" means monetary or financial assistance in any form, other than a tax credit or tax exemption granted pursuant to a claim made on a tax return filed with the Division of Taxation in the Department of the Treasury, including but not limited to a grant, loan, loan guarantee, or other monetary or financial benefit awarded to a person by a department or agency of State government, including independent authorities and instrumentalities of the State, to assist the person in the conduct or operation of a business, occupation, trade, or profession in the State, in connection with the following programs:

(1) the business employment incentive program established pursuant to P.L.1996, c.26 (C.34:1B-124 et al.);

(2) the business retention and relocation assistance program established pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

(3) the customized training services provided pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5), except for assistance provided to a person pursuant to paragraph (4) of subsection a. of section 1 of P.L.2001, c.152 (C.34:15D-21);

(4) the business, commercial and industrial components of the clean energy program administered by the Board of Public Utilities;

(5) the business grant, loan, and loan guarantee programs administered by:

(a) the New Jersey Economic Development Authority;

(b) the New Jersey Housing and Mortgage Finance Agency; and

(c) the Casino Reinvestment Development Authority;

(6) the science and technology grants provided by or through the New Jersey Commission on Science and Technology; and

(7) any other similar State program that confers a significant monetary or financial benefit upon a business or businesses, as prescribed by the State Treasurer pursuant to regulations promulgated pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except for assistance provided to a person pursuant to paragraph (4) of subsection a. of section 1 of P.L.2001, c.152 (C.34:15D-21).

e. The director may charge and collect an application fee from a person applying for a tax clearance certificate, to reflect the administrative costs, and may charge and collect a reasonable service fee for the provision of any expedited services offered.

f. In order to better manage the workload of issuing tax clearance certificates, the director may prescribe a schedule by which tax clearance certificates will initially be issued for only one or more of the programs enumerated as business assistance or incentive, or one or more of the components of one or more of those programs, and by which tax clearance certificate issuance for other programs enumerated, or other components of those programs, will be instituted beginning on dates specified according to the schedule. In prescribing the schedule the director will give due regard to the monetary value of the assistance and incentive offered, the timing of the application process, the number of applicants, and necessary applicant and program administrator notice for a particular program or program component. Such a schedule adopted by the director shall be subject to change by the director, but in any case shall provide for issuance of tax clearance certificates for all enumerated programs before January 1, 2009.

Notwithstanding any provisions of this section to the contrary, no tax clearance certificate shall be required as a precondition to the award of business assistance or incentive or as a component of the application for business assistance or incentive prior to its program's, or its program's component's, scheduling by the director pursuant to this subsection.

g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2007, c.101 (C.54:50-39) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

5. This act shall take effect immediately.

Approved January 14, 2010.